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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,331	12/09/2004	Claudio Miguel Suarez	331.1082	2921

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DAVIDSON, DAVIDSON & KAPPEL, LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK, NY 10018

EXAMINER

BOGART, MICHAEL G

ART UNIT	PAPER NUMBER
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3761

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/517,331

Applicant(s)

SUAREZ, CLAUDIO

Examiner

Michael G. Bogart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date See Continuation Sheet.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :24 July 2006 & 09 December 2004.

DETAILED ACTION

Claim Objections

Claim 23 objected to because of the following informalities: There are two claims identified as claim 23. Appropriate correction is required.

Claim Rejections – 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-14 and 18-27 are rejected under 35 U.S.C. § 102(b) as being anticipated by Roxendal *et al.* (WO 99/27879 A2; hereinafter: “Roxendal”).

Regarding claims 1 and 24, Roxendal teach an article (1) for the absorption and retention of a liquid fluid, comprising: a cover (2) permeable to fluids and configured to be in contact with a user's skin; a transfer layer (5) provided below the cover, the transfer layer (5) including a top layer (5d) of predominantly hydrophobic fibrous material and a bottom layer (5e) of predominantly hydrophilic material superimposed on the top layer and joined to the top layer (5d) at a plurality of longitudinal joining regions (10) of the top and bottom layers so as to form a plurality of channels (10) at the joining regions (10), a plurality of peaks (9) being formed of the top and bottom layers (5d, 5e) between adjacent ones of the plurality of channels (10), wherein a

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transversal thickness of the top and bottom layers is lower at the joining regions than at the peaks, wherein the channels (10) are in contact with the cover (2);

an absorbent core (4) configured to absorb and retain the liquid fluid (page 6, line 17- page 7, line 14; page 8, lines 12-17; page 9, line 31- page 12, line 5) (see figures 2, 5 and 11, infra).

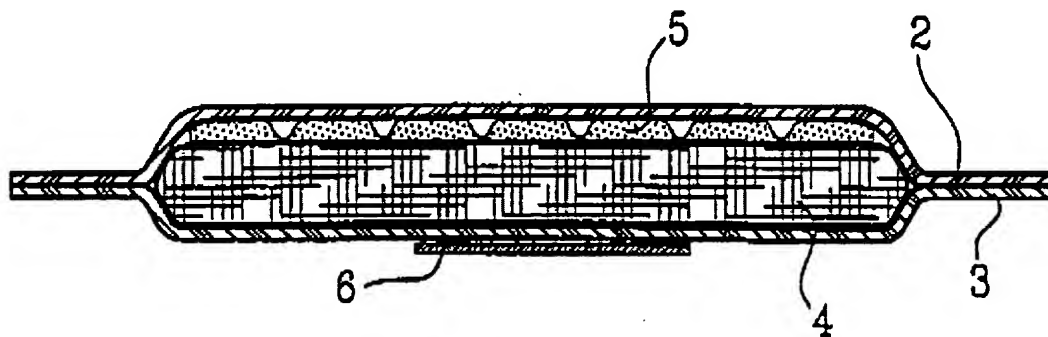


FIG. 2

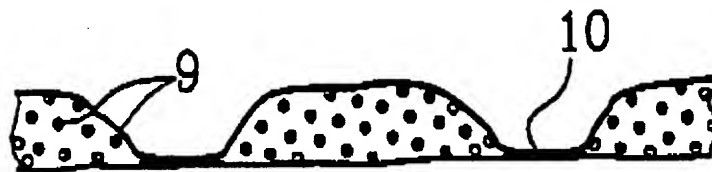


FIG. 5

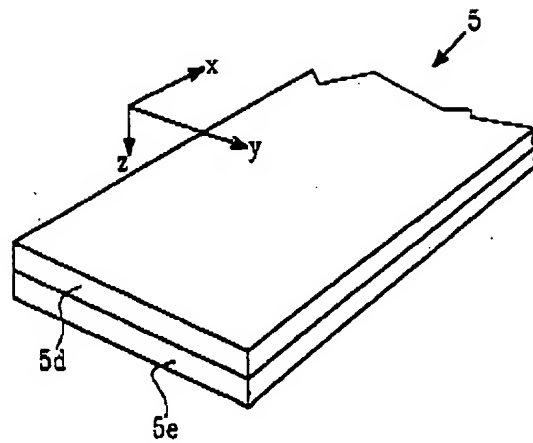


FIG. 11

Regarding the limitation “longitudinal,” Roxendal teaches at least one embodiment where the bonded regions extend diagonally, and thus extend partially in a longitudinal direction (see figure 1, *infra*).

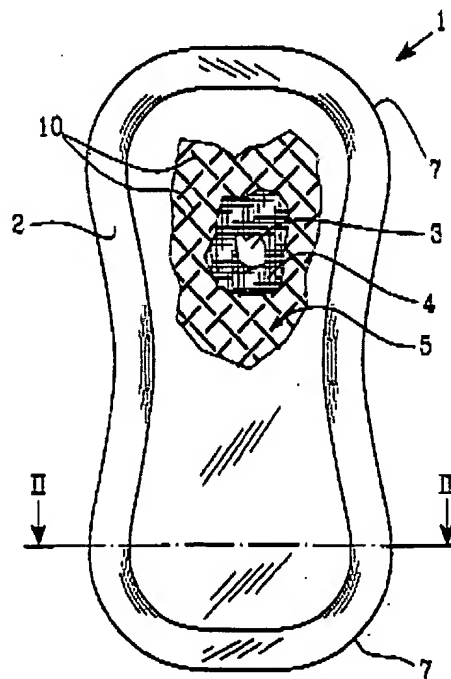


FIG. 1

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Regarding claim 12, Roxendal teaches peaks (9) which define zones of distribution to the channels (10)(liquid flows in a z-directions down peaks to channels).

Regarding claims 13, 14, 18-20 and 25, Roxendal teaches that top layer (5d) is more hydrophobic than the lower layer allowing unidirectional downward flow in a z-direction (5e)(page 12, lines 14-16).

Regarding claims 21 and 26, Roxendal teaches a diaper (1)(abstract).

Regarding claim 23 (first claim 23), Roxendal teaches parallel lines (10)(figure 1).

Regarding claims 23 (second claim 23) and claim 27, Roxendal teaches that the channels (10) form a linear regions of fluid distribution (figure 1).

Claim Rejections – 35 USC § 103

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Roxendal.

Roxendal does not expressly disclose the specifically claimed dimensional limitations and fiber density. Mere changes in size alone are not sufficient to patent In Gardner v. TEC

Systems, Inc., 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984),

cert. denied, 469 U.S. 830, 225 USPQ 232 (1984)entably distinguish a claimed invention over the prior art. *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984),

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cert. denied, 469 U.S. 830, 225 USPQ 232 (1984).

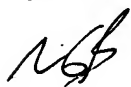
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (571) 272-4933.

In the event the examiner is not available, the Examiner's supervisor, Tatyana Zalukaeva may be reached at phone number (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for formal communications. For informal communications, the direct fax to the Examiner is (571) 273-4933.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Bogart
2 April 2007

**TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER**

